

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TANYA STUTSON,

Plaintiff,

vs.

WARDEN REED *et al.*,

Defendant(s).

Case No.: 11-cv-03979 YGR

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

The Court has reviewed Plaintiff's Motion for Appointment of Counsel.

In contrast to criminal proceedings, there generally is no constitutional right to counsel in civil actions. *United States v. 30.64 Acres of Land*, 795 F.2d 796, 801 (9th Cir. 1986) ("There is normally ... no constitutional right to counsel in a civil case."). In proceedings *in forma pauperis*, the Court has the statutory power only to "request an attorney to represent any person unable to afford counsel." 28 U.S.C. § 1915(e)(1). This decision of whether to request counsel is within the discretion of the district court and is "granted only in exceptional circumstances." *See Agyeman v. Corr. Corp. of Am.*, 390 F.3d 1101, 1103 (9th Cir. 2004) (quoting *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984)). Deciding whether "exceptional circumstances" exist requires an evaluation of the likelihood of plaintiff's success on the merits as well as the ability of the plaintiff to articulate her claims *pro se* in light of the complexity of the legal issues. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986) (citing *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)).

At this stage of the proceedings, where Plaintiff's complaint has been dismissed and there is no operative complaint on file, the Court is unable to determine whether the exceptional circumstances required for requesting counsel are present here. Accordingly, Plaintiff's Motion for Appointment of Counsel is **DENIED WITHOUT PREJUDICE**. The Court may reconsider on its own motion and request appointment of counsel later in the proceedings.

1 The Court advises Plaintiff that a Handbook for Pro Se Litigants, which contains helpful
2 information about proceeding without an attorney, is available in the Clerk's office or through the
3 Court's website, <http://cand.uscourts.gov>. The Court also advises Plaintiff that additional assistance
4 may be available by making an appointment with the Legal Help Center. There is no fee for this
5 service. To make an appointment with the Legal Help Center in San Francisco, Plaintiff may visit the
6 San Francisco Courthouse, located at 450 Golden Gate Avenue, 15th Floor, Room 2796, San
7 Francisco, California, 94102, or call 415/782-9000 (ext. 8657). To make an appointment with the
8 Federal Legal Assistance Self-Help Center in San Jose, Plaintiff may visit the San Jose Federal
9 Courthouse, located at 280 South 1st Street, 4th Floor, Rooms 4093 & 4095, San Jose, California,
10 95113, or call 408/297-1480. Please visit the Court's website or call the phone numbers listed above
11 for current office hours, forms and policies.

12 This Order Terminates Docket Number 79.

13 **IT IS SO ORDERED.**

14 **Date: January 16, 2013**

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16 YVONNE GONZALEZ ROGERS
17 UNITED STATES DISTRICT COURT JUDGE
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